

CHAPTER 18
REGULATION OF SOLID FILL AND GRADES

18.1 SOLID FILL AND GRADES

- (a) **Transporting, Dumping, or Placement of Solid Fill.** No person, firm or institution, public or private, shall transport to, dump, or place upon lands, public or private, solid fill within the Village of Fox Point without first obtaining a permit therefore. In granting or denying a permit, the Village Manager, or such authority as shall from time-to-time be charged by the Village Board with the regulation of solid fill, shall consider the purpose for the transportation, dumping, or placement of such fill. It shall be deemed a legitimate purpose to transport, dump, or place such minimal amount of fill as reasonably necessary to accommodate the use and development of property as allowed by the applicable use regulations of the zoning district in which the property is situated. A fill permit may be denied or modified if such use can be accommodated without fill, or by a lesser amount of fill than that which is requested in the application for a permit, or if it is determined that the amount of fill presents an unnecessary or unreasonable risk of harm, particularly as to drainage and storm water runoff to other properties in the area.

- (b) **Drainage.** Filling operations shall not block a natural drainage course if building or development can occur consistent with the use regulations of the zoning district in which the subject property is located without filling the area of the lot which constitutes such natural drainage course. In the event building or development can only occur by the filling of a natural drainage course, such filling operation shall only be allowed if an alternate drainage course, suitable in the discretion of the Village Manager or his/her designate, is provided.

- (c) **Natural Drainage Course – Defined.** For purposes of this Section, a natural drainage course shall be deemed to mean any creek, ravine, gully, channel, hollow, swale, or depression, through or over which surface water continuously or periodically flows in its natural course.

- (d) **Notification.** In addition to any notice requirements under any applicable state or federal law, or as otherwise provided in the Village of Fox Point Code, the Village Clerk, or his/her designee, shall provide notice by first class mailing to the owners or occupants of all properties within 500 feet of the subject property at least 21 days prior to any hearing, procedure, or consideration by the Village Manager, or his/her designate, of such application.

18.2 **Application.** Application for a filling permit to transfer, dump or place solid fill within the Village of Fox Point shall be made by the owner of the lands to be filled or his designated agent in writing to the Village Manager upon an application made available by the Village. A separate Hauling Permit shall be obtained for each truck or vehicle hauling the fill material. The applicant shall set forth in the application the following information:

- (a) Location of filling operation.
- (b) Proposed routes for hauling fill.
- (c) Number, type and size of trucks to be used.
- (d) Proposed trucking schedule, number of days, times of day, etc.
- (e) Other equipment involved in fill operation.
- (f) Descriptions and source of fill material.
- (g) A plan which shall include, but which shall not be limited to, a description of area where operation is to take place; intent and purpose of the plan; an estimated length of time to finish plan; engineering studies if available or if requested by the Village; plan for plantings; plan for grading; the grade of the terrain surrounding the area proposed to be filled; cross-section drawings showing the topography of the land before commencing the filling operation and upon completion of the filling operation; plan for maintenance and appearance during time of inactivity; plan for shore protection; and other such requirements, tests, and surveys that may be imposed and information that may be requested by the Village concerning the fill area and access routes thereto. Any and all changes or amendments to the above plans shall be submitted to the Village for review and approval before such changes or amendments are executed.
- (h) Daily cleaning and maintenance schedule for access and hauling route, including description of the personnel and equipment on site or contracted for this purpose. Applicant shall provide a description of measures to be taken to control dust, mud, ice, storm water, etc.

18.3 **Fees.** Every calendar year a nonrefundable initial fee of \$100.00 shall accompany the application for Filling Permit. A nonrefundable fee of \$20.00 per truck or vehicle hauling fill materials to the fill area shall be paid.

Applicant shall also pay all out-of-pocket expenses incurred by the Village for its review and issuance of the Filling Permit or renewal permit.

- 18.4 **Fill Material.** Fill material shall be clean, inert material free from organic matter, brush, garbage and material subject to organic decomposition. Fill containing items such as hollow containers, appliances and equipment subject to subsequent collapse or settlement is prohibited. Generally, material such as earth fill and broken concrete of a size to be approved by the Village Manager and/or Village Engineer will be classified as acceptable fill subject to other permit requirements.
- 18.5 **Weight of Trucks.** The Village Manager shall review the proposed truck routes and the weight of said trucks, both unloaded and loaded, and because of weight may restrict or prohibit said trucks from using certain Village streets and highways as a condition of a Filling Permit.
- 18.6 **Permit.** The Village Manager may issue a Filling Permit to each applicant when she/he is satisfied that the fill material meets the requirements in (4) above and that the filling operation will not create unreasonable noise, traffic or other problems detrimental to a residential community in the area of said filling. The permit shall not authorize any filling between the hours of 5:00 p.m. and 7:00 a.m. on week days nor at any time on Saturday, Sunday or on a statutory holiday. The permit may restrict the hours of filling or the number of trucks involved based on the location of the filling operation and the traffic conditions in the area of the filling. The Filling Permit shall be for a period of not to exceed three (3) consecutive months but may be renewed not more than two (2) times in a calendar year. The Hauling Permit shall be for a period not to exceed three (3) consecutive months but may be renewed not more than two (2) times in a calendar year. Renewal permits shall be subject to the conditions of the initial application and shall cost \$20.00 per renewal. Filling and Hauling Permits are non-transferable.
- 18.7 **Cash Deposit.** The Filling Permit shall not be effective until the posting of a \$250.00 cash deposit with the Village. Said cash deposit shall be held by the Village to ensure adequate clean up of streets and surrounding areas from spillage, debris, dust, all other material from the trucks carrying the fill, and inspection of filling operations by Village personnel. In the event the permittee or his contractor fail to clean up the streets at sufficient time intervals, the Village may clean up said streets and use such part of the cash deposit for the expense of clean up. The Village shall maintain a record of inspections conducted by Village personnel and use such part of the cash deposit for the expense of inspections. In the event that all or any portions of the initial \$250.00 cash deposit is used for such clean up or inspection, the permittee or his contractor shall post additional sums of money so that the

deposit will continue to be maintained in the amount of \$250.00 for the entire time period of the Filling Permit.

- 18.8 **Bond.** The Filling Permit shall not be effective until the posting of a surety bond executed by a surety company licensed to do business in Wisconsin in the sum of not less than \$5,000.00 or in such high amount as is necessary in the opinion of the Village Manager for the purpose of securing the Village against any and all damages to Village property and/or unreimbursed expenses the Village may incur from such filling operations.
- 18.9 **Other Permits.** The Filling Permit shall not be effective until all applicable County, State or Federal licenses or permits are obtained and copies are provided to the Village. This section shall in no way limit the requirements of those other jurisdictions to restrict or require their approval or permit, if necessary.
- 18.10 **Exceptions.** This section shall not apply to customary top dressing or fertilizing of lawns and gardens, nor shall it apply to construction of block or concrete patios, or driveways permitted under the Village Code. This section shall not apply to the construction of a berm of two and one-half (2.5) feet or less in height, provided the berm shall not change the capacity or rate of flow of water so as to adversely effect the drainage of surface water in the vicinity of the berm. This section shall not apply to the repair of an existing lake or stream barrier.
- 18.11 **Signage.** Any signs shall be in accordance with Chapter 16 of the Fox Point Village Code.
- 18.12 **Appeal.** Any person, firm or institution who is denied a Filling Permit or whose filing operation is restricted due to noise, traffic or other conditions may appeal to the Village Board by filing a written Notice of Appeal with the Village Manager.
- 18.13 **Penalty.** Any person, firm or institution who is engaged in filling without a permit or who fails to follow the plans submitted in the application or fails to comply with the terms and conditions of a permit issued to him shall be subject to immediate suspension of Filling Permit and filling activities by the Village Manager, and to the penalty provided in Section 1.07 of the Fox Point Code.
- 18.14 **Conflicts.** All ordinances or parts of ordinances conflicting with the provisions of this section are hereby to such extent repealed.

(Ordinance 2004-06 adopted 4/13/04)